

ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 28 days prior to the pretrial conference, counsel shall exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7),(8),(9), and (10), and their motions in limine.

2. At least 21 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, the parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the pretrial conference; and

(c) Settlement of the action.

3. Not less than 14 days prior to the pretrial conference, counsel shall submit the following.

(a) Pretrial Conference Statement. The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed.

(2) The Factual Basis of the Action.

(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputed.

(B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.

(C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) Disputed Legal Issues. Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief.

(4) Further Discovery or Motions. A statement of all remaining discovery or motions.

(5) Trial Alternatives and Options.

(A) Settlement Discussions. A statement summarizing the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(B) Consent to Trial Before a Magistrate Judge. A statement whether the parties consent to a court or jury trial before a magistrate judge, with appeal directly to the Ninth Circuit.

(C) Bifurcation, Separate Trial of Issues. A statement of whether bifurcation or a separate trial of specific issues is feasible and desired.

(6) Miscellaneous. Any other subjects relevant to the trial of the action, or material to its just, speedy and inexpensive determination.

(b) Exhibit List and Objections. The exhibit list shall list each proposed exhibit by its number (see Civil L.R. 30-2(b)), description, and sponsoring witness, followed by

1 blanks to accommodate the date on which it is marked for  
2 identification and the date on which it is admitted into  
3 evidence. **No party shall be permitted to offer any exhibit in**  
4 **its case-in-chief that is not disclosed in its exhibit list**  
5 **without leave of the Court for good cause shown.** Parties  
6 shall also deliver a set of premarked exhibits to the  
7 Courtroom Deputy. The exhibit markers shall each contain the  
8 name and number of the case, the number of the exhibit, and  
9 blanks to accommodate the date admitted and the Deputy Clerk's  
10 initials. (Appropriate sample forms are available on the  
11 Court's website at [www.cand.uscourts.gov](http://www.cand.uscourts.gov)). Any objections to  
12 exhibits which remain after the pretrial meeting shall be  
13 indicated in the pretrial statement.

14 (c) Witness List. In addition to the requirements  
15 of FR CivP 26(a)(3)(A), a brief statement describing the  
16 substance of the testimony to be given by each witness who may  
17 be called at trial. **No party shall be permitted to call any**  
18 **witness in its case-in-chief who is not disclosed in its**  
19 **pretrial statement without leave of Court for good cause**  
20 **shown.**

21 (d) Use of Discovery Responses. In addition to the  
22 requirements of FR CivP 26(a)(3)(B), a designation of any  
23 excerpts from interrogatory answers or from responses for  
24 admissions intended to be offered at trial. Counsel shall  
25 indicate any objections to use of these materials and that  
26 counsel have conferred respecting such objections.

27 (e) Trial briefs. Briefs on all significant  
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1     disputed issues of law, including foreseeable procedural and  
2     evidentiary issues, which remain after the pretrial meeting.

3             (f) Motions in Limine. Any motions in limine that  
4     could not be settled at the pretrial meeting shall be filed  
5     with the pretrial statement. All motions in limine shall be  
6     contained within one document, limited to 25 pages pursuant to  
7     Civil L.R. 7-2(b), with each motion listed as a subheading.  
8     Opposition to the motions in limine shall be contained within  
9     one document, limited to 25 pages, with corresponding  
10    subheadings, and filed seven (7) days thereafter.

11            (g) Joint Proposed Voir Dire. The attached voir  
12    dire questionnaire will be given to the venire members, and  
13    copies of the responses will be made available to counsel at  
14    the beginning of voir dire. Counsel may submit a set of  
15    additional requested voir dire, to be posed by the Court, to  
16    which they have agreed at the pretrial meeting. Any voir dire  
17    questions on which counsel cannot agree shall be submitted  
18    separately. Counsel may be allowed brief follow-up voir dire  
19    after the Court's questioning.

20            (h) Joint Proposed Jury Instructions. As  
21    applicable, jury instructions §1.1A, §1.1C, §1.2 through  
22    §1.17, §1.19, §2.1 through §2.13, §3.1 through §3.3 from the  
23    Manual of Model Civil Jury Instructions for the Ninth Circuit  
24    (2007 Edition) will be given absent objection. Counsel shall  
25    jointly submit one set of additional proposed jury  
26    instructions, to which they have agreed at the pretrial  
27    meeting. The instructions shall be ordered in a logical  
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1 sequence, together with a table of contents. Any instruction  
2 on which counsel cannot agree shall be marked as "disputed,"  
3 and shall be included within the jointly submitted  
4 instructions and accompanying table of contents, in the place  
5 where the party proposing the instruction believes it should  
6 be given. Argument and authority for and against each  
7 disputed instruction shall be included as part of the joint  
8 submission, on separate pages directly following the disputed  
9 instruction.

10 The parties shall email to cwpo@cand.uscourts.gov a copy  
11 of their proposed jury instructions in WordPerfect or Word  
12 format. The subject of the email should include the name of  
13 the parties, the case number and a description of the  
14 document.

15 (i) Proposed Verdict Forms, Joint or Separate.

16 (j) Proposed Findings of Fact and Conclusions of  
17 Law (Court Trial only). The parties shall email to  
18 cwpo@cand.uscourts.gov a copy of their proposed findings of  
19 fact and conclusions of law in WordPerfect or Word format.  
20 The subject of the email should include the name of the  
21 parties, the case number and a description of the document.

22 JURY SELECTION

23 The Jury Commissioner will summon 20 to 25 prospective  
24 jurors. The Courtroom Deputy will select their names at  
25 random and seat them in the courtroom in the order in which  
26 their names are called.

27 Voir dire will be asked of sufficient venire persons so  
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1 that eight (or more for a lengthy trial) will remain after all  
2 peremptory challenges and an anticipated number of hardship  
3 dismissals and cause challenges have been made.

4 The Court will then take cause challenges, and discuss  
5 hardship claims from the individual jurors, outside the  
6 presence of the venire. The Court will inform the attorneys  
7 which hardship claims and cause challenges will be granted,  
8 but will not announce those dismissals until the process is  
9 completed. Each side may then list in writing up to three  
10 peremptory challenges. The attorneys will review each other's  
11 lists and then submit them to the Courtroom Deputy.

12 Then, from the list of jurors in numerical order, the  
13 Court will strike the persons with meritorious hardships,  
14 those excused for cause, and those challenged peremptorily,  
15 and call the first eight people in numerical sequence  
16 remaining. Those people will be the jury.

17 All jurors remaining at the close of the case will  
18 deliberate. There are no alternates.

19 SANCTIONS

20 Failure to comply with this Order is cause for sanctions  
21 under Federal Rule of Civil Procedure 16(f).

22 IT IS SO ORDERED.

23  
24 Dated: \_\_\_\_\_



\_\_\_\_\_  
CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

JUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom of the page. Thank you for your cooperation.

1. Your name:

\_\_\_\_\_

2. Your age:

\_\_\_\_\_

3. The city where you live:

\_\_\_\_\_

How long have you lived there: \_\_\_\_\_

4. Your place of birth:

\_\_\_\_\_

5. Do you rent or own your own home?

\_\_\_\_\_

6. Your marital status: (circle one)

single married live with partner separated divorced  
widowed

7. What is your occupation, and how long have you worked in it? (If you are retired, please describe your main occupation when you were working).

\_\_\_\_\_

\_\_\_\_\_

8. Who is (or was) your employer?

\_\_\_\_\_

9. How long have you worked for this employer? \_\_\_\_\_

10. Please list the occupations of any adults with whom you live.

\_\_\_\_\_

1 11. If you have children, please list their ages and sex and,  
2 if they are employed, please give their occupations.

3  
4  
5  
6 12. Please describe your educational background:

7 Highest grade completed: \_\_\_\_\_

8 College and/or vocational schools you have attended:  
9  
10  
11  
12

Major areas of study: \_\_\_\_\_

13 13. Have you ever served on a jury before? \_\_\_\_\_ How many  
14 times? \_\_\_\_\_

15 If yes: State/County Court \_\_\_\_\_ Federal Court \_\_\_\_\_

16 When? \_\_\_\_\_

17 Was it a civil or criminal case? \_\_\_\_\_

18 Did the jury(ies) reach a verdict? \_\_\_\_\_

19 14. Attached is a list of the parties in this case, the law  
20 firms representing the parties, attorneys in this case,  
21 and persons who are potential witnesses in this case. Do  
22 you know, or think you know, any of the persons listed?

23 Yes: \_\_\_\_\_ No: \_\_\_\_\_

24 If so, make a check next to their name.  
25  
26  
27  
28